

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION:**

SOAH DOCKET NO. 453-04-4340.M5

MDR Tracking Number: M5-04-0089-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 09-23-03. In accordance with Rule 133.307(d)(1) A dispute on a carrier shall be considered timely if it is filed with the division no later than one year after the dates of service in dispute therefore dates of service in dispute for 09-17-02 and 09-18-02 are considered untimely.

The IRO reviewed office visits and therapeutic exercises rendered from 09-26-02 through 11-15-02 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity for office visits and therapeutic exercises. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On January 06, 2003, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice. Documentation was not submitted in accordance with Rule 133.307(I) to confirm services were rendered for dates of service 11-18-02 and 11-20-02. Therefore reimbursement is not recommended.

This Decision is hereby issued this 11th day of February 2004.

Georgina Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

ORDER.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 8-28-01 through 12-28-01 in this dispute.

This Order is hereby issued this 11th day of February 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION amended

December 19, 2003

Re: IRO Case # M5-04-0089-01

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Orthopedic Surgery, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient reported injury to her right shoulder. She was initially treated for cervical radiculopathy with cervical therapy, epidural steroid injections, and ultimately decompressive surgery. She continued to have right shoulder pain. Conservative management was attempted for subacromial impingement syndrome and AC joint arthritis. Conservative treatment failed and surgery was recommended. Surgery was performed 5/10/02. The patient received 15 weeks of postoperative rehabilitation starting in June. The patient's postoperative recovery was complicated by a mastectomy and chemotherapy. This necessitated another course of physical therapy from September through November. The treating doctor and consulting surgeon determined that this was medically necessary based on the patient's slow progress.

Requested Service(s)

Office visit, therapeutic exercises 9/26/02-11/15/02

Decision

I disagree with the carrier's decision to deny the requested treatment.

Rational

The patient had multiple risk factors that complicated her recovery. These included cervical disease, diabetes, and physical deconditioning from breast cancer and chemotherapy. This slow, poor progress is well documented in the physical therapy notes, and from the records provided for this review the medical necessity for continued physical therapy appears to be reasonable and necessary. Twelve to fifteen weeks of physical therapy is usually medically indicated after arthroscopic subacromial decompression and distal clavicle excision. This patient required almost twice as much therapy because of the above-mentioned complications. These have been documented and suffice to justify the medical necessity of the disputed services.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.